

No. 23-1078

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**United States Court of Appeals for the Fourth Circuit**

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B.P.J., BY HER NEXT FRIEND AND MOTHER, HEATHER JACKSON,  
PLAINTIFF-APPELLANT,

v.

WEST VIRGINIA BOARD OF EDUCATION, ET AL.,  
DEFENDANTS-APPELLEES,

AND

THE STATE OF WEST VIRGINIA AND LAINEY ARMISTEAD,  
INTERVENORS-APPELLEES.

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*APPEAL FROM THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA,  
NO. 21-CV-316, HON. JOSEPH R. GOODWIN, PRESIDING*

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**MOTION FOR LEAVE TO FILE BRIEF OF CONCERNED WOMEN  
FOR AMERICA AND SAMARITAN'S PURSE AS *AMICI CURIAE*  
SUPPORTING APPELLEES AND AFFIRMANCE**

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CHRISTOPHER MILLS  
*Spero Law LLC*  
*557 East Bay Street #22251*  
*Charleston, SC 29413*  
*(843) 606-0640*  
*cmills@spero.law*

Counsel for *Amici Curiae*

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## **CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1, *amici* do not have parent corporations, they are not publicly traded companies, and no publicly held corporation owns 10% or more of their stocks.

Pursuant to Federal Rule of Appellate Procedure 29(a)(3), Concerned Women for America (“CWA”) and Samaritan’s Purse move for leave to file the attached brief as *amici curiae* in support of Appellees. Defendant-Appellee West Virginia Secondary School Activities Commission stated that it takes no position on the filing of this brief. All other parties consented.

CWA is the largest public policy organization for women in the United States, with about half a million supporters in all 50 states. CWA advocates for traditional values that are central to America’s cultural health and welfare. CWA is made up of people whose voices are often overlooked—average American women whose views are not represented by the powerful or the elite. CWA has a substantial interest in this case. CWA’s mission includes ensuring that female athletes can fully participate in sports fairly and safely. Thus, CWA advocates for laws that limit participation in female sports to biological females.

Samaritan’s Purse is a nondenominational, evangelical Christian organization formed in 1970 to provide spiritual and physical aid to hurting people around the world. The organization seeks to follow the command of Jesus to “go and do likewise” in response to the story of the Samaritan who helped a hurting stranger. Samaritan’s Purse operates in over 100 countries providing crisis relief, sharing the hope and love of Jesus Christ with those in the gutters and ditches of the world in their darkest hour of need. The ministry operates relief programs around the world

for vulnerable women who are victims of war, famine, disaster and through maternal and child healthcare. Samaritan's Purse's concern arises when concepts of Biblical and scientific reality are threatened by executive, legislative or judicial action compelling ideologies that diminish common grace related to safety, fairness, privacy, speech, and religious free exercise.

The proposed brief provides relevant arguments about how intermediate scrutiny should apply to this case. As the brief explains, B.P.J. proposes an unprecedented theory of as-applied intermediate scrutiny that would collapse the distinction between strict and intermediate scrutiny. Thus, the brief adds pertinent arguments on issues central to the proper resolution of this case.

For these reasons, the Court should grant the motion and file the attached brief.

Respectfully submitted,

s/ Christopher Mills

CHRISTOPHER MILLS

*Spero Law LLC*

*557 East Bay Street #22251*

*Charleston, SC 29413*

*(843) 606-0640*

*cmills@spero.law*

Counsel for *Amici Curiae*

MAY 3, 2023

## CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by rule, it contains 364 words.

2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 365 in 14-point Times New Roman font.

Dated: May 3, 2023

/s Christopher Mills

Christopher Mills

**CERTIFICATE OF SERVICE**

I, Christopher Mills, an attorney, certify that on this day the foregoing Motion and all attachments were served electronically on all parties via CM/ECF.

Dated: May 3, 2023

s/ Christopher Mills  
Christopher Mills